



Attorney's Docket No.: 09010-045002

1652
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#12/RW
05-29-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jay M. Short et al.

Art Unit : 1652

Serial No. : 09/902,525

Examiner : Richard G. Hutson, Ph.D.

Filed : July 9, 2001

Title : ENZYMES HAVING THERMOSTABLE PHOSPHATASE ACTIVITY AND
METHODS OF USE THEREOF

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U.S. Patent and Trademark Office
Arlington, VA 22202

MAY 16 2003

REVOCATION AND NEW POWER OF ATTORNEY

TECH CENTER 1600/2900

Under 37 CFR §3.73(b) DIVERSA CORPORATION, a Delaware corporation, certifies that it is the assignee of 100% of the right, title and interest in the patent application identified above by virtue of:

☒ A chain of title from the inventors of the patent application identified above, to Diversa Corporation. A copy of the assignment as filed with the U.S. Patent and Trademark Office on February 28, 2002 is attached.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in the assignee identified above.

The undersigned, whose title is supplied below, is empowered to act on behalf of the assignee.

The undersigned, acting on behalf of the assignee, hereby revokes all powers of attorney previously granted in the application and appoints the practitioners at Customer Number 20985, with full power of substitution and revocation, to prosecute the application and to transact all business in the United States Patent and Trademark Office connected therewith.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the U.S. Patent and Trademark Office, P.O. Box 2327, Arlington, VA 22202.

4/10/2003

Date of Deposit

Signature

Deborah K. Sim

Deborah K. Sim

Typed or Printed Name of Person Signing Certificate

Applicant : Jay M. Short et al.
Serial No. : 09/902,525
Filed : July 9, 2001
Page : 2

Attorney's Docket No.: 09010-045002

All correspondence regarding the application should be sent to:

PTO CUSTOMER NO. 20985
Gregory P. Einhorn
Fish & Richardson P.C.
4350 La Jolla Village Drive, Suite 500
San Diego, California 92122

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Respectfully submitted,

Date: 6-7-02


CAROLYN ERICKSON
Vice President, Intellectual Property

Fish & Richardson P.C.
4350 La Jolla Village Drive, Suite 500
San Diego, California 92122
Telephone: (858) 678-5070
Facsimile: (858) 678-5099

ASSIGNMENT
(BY INVENTOR(S))

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This assignment ("Assignment") is made by Jay M. Short of Rancho Santa Fe, California, Eric Mathur of Carlsbad, California, Edd Lee of Solana Beach, California and Edward Bylina of San Diego, California ("Assignor") to DIVERSA CORPORATION, a Delaware corporation ("Assignee"), having a place of business at 4955 Directors Place; San Diego, California 92121.

Recitals

A. Each of the Assignors has invented a new and useful invention entitled ENZYMES HAVING THERMOSTABLE PHOSPHATASE ACTIVITY AND METHODS OF USE THEREOF, for which an application for United States Letters Patent was filed on July 9, 2001 in the United States Patent and Trademark Office.

B. Each of the Assignors authorizes and requests insertion of the serial number of the application when officially known:

The United States Application Serial No.: 09/902,525

C. Each of the Assignors believes the Assignors to be the original, first and joint inventors of the invention disclosed and/or claimed in the application for Letters Patent.

D. The parties desire to have a recordable instrument assigning from the Assignors to the Assignee the entire rights, title and interest in and to the invention, the application and all Letters Patent in the United States and throughout the world that may be granted or issued for the invention or that derive a right of priority from the application (including, without limitation, all divisional, continuation, continuation-in-part and continued prosecution applications thereof, and all reissues and reexaminations thereof, and all foreign counterparts thereof) (collectively, the "Invention Patents").

In the Application of
Short, et al. (as amended)
Filed: July 9, 2001

PATENT
Attorney Docket No.: DIVER1230-2

Agreement

NOW, THEREFORE, in accordance with the obligations to assign the Invention Patents and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Assignors agrees to the foregoing and as follows:

1. Each of the Assignors does and will sell, assign and transfer to Assignee, such Assignor's entire rights, title, and interest in and to each of the Invention Patents, including, without limitation, the rights to file foreign applications directly in the name of the Assignee and to claim for any such foreign applications any priority rights to which such applications are entitled under international conventions, treaties, or otherwise.

2. Each of the Assignors agrees that, upon request and without further compensation, but at no expense to such Assignor, such Assignor and such Assignor's legal representatives and assigns will do all lawful acts, including the execution of papers and the giving of testimony, that may be necessary or desirable for obtaining, sustaining, reissuing, or enforcing each of the Invention Patents in the United States and throughout the world, and for perfecting, recording, or maintaining the title of Assignee, and Assignee's successors and assigns, in and to each of the Invention Patents in the United States and throughout the world. In the event that Assignee is unable for any reason to secure any of the Assignors' signatures to any document that may be necessary or desirable for obtaining, sustaining, reissuing, or enforcing each of the Invention Patents in the United States and throughout the world, or for perfecting, recording, or maintaining the title of Assignee, and Assignee's successors and assigns, in and to each of the Invention Patents in the United States and throughout the world, each such Assignor hereby irrevocably designates and appoints Assignee and Assignee's duly authorized officers and agents as such Assignor's agents and attorneys-in-fact to act for and on such Assignor's behalf and instead of such Assignor to execute such document, all with the same legal force and effect as if executed by such Assignor.

In the Application of
Short, et al. (as amended)
Filed: July 9, 2001

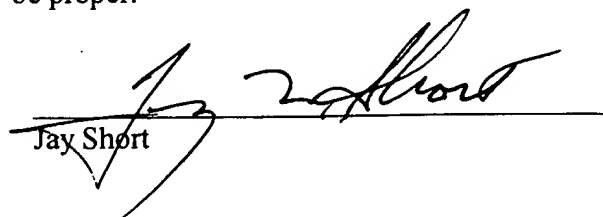
PATENT
Attorney Docket No.: DIVER1230-2

3. Each of the Assignors represents and warrants that such Assignor has not granted and will not grant to others either (1) any rights, title or interest in and to any of the Invention Patents, or (2) any rights inconsistent with the rights granted herein.

4. Each of the Assignors authorizes and requests the Assistant Commissioner for Patents of the United States and the various counterparts thereof throughout the world to issue and/or grant any Letters Patent granted for each of the Invention Patents to Assignee, its successors and assigns, as the assignee of the entire interest in such Invention Patents.

5. This Assignment constitutes the entire agreement with respect to its subject matter and supersedes all prior or contemporaneous oral or written agreements concerning such subject matter. No waiver, amendment, or modification of this Assignment shall be effective against the Assignee, unless in writing executed by a duly authorized representative of the Assignee. This Assignment shall be governed in all respects by the laws of the United States of America and by the laws of the state/province of California, as such laws are applied to agreements entered into and to be performed entirely within California between California residents. Each of the parties irrevocably consents to the exclusive personal jurisdiction of the federal and state courts located in California, as applicable, for any matter arising out of or relating to this Assignment, except that in any action seeking to enforce any order or any judgment of such federal or state courts located in California, such personal jurisdiction shall be nonexclusive. A breach of any of the promises or agreements contained herein will result in irreparable and continuing damage to Assignee for which there will be no adequate remedy at law, and Assignee shall be entitled to injunctive relief and/or a decree of specific performance, and such other relief as may be proper.


Dated: 12/20/01


Jay Short

In the Application of
Short, et al. (as amended)
Filed: July 9, 2001

PATENT
Attorney Docket No.: **DIVER1230-2**

Dated: 12/20/01


Eric Mathur

Dated: 1/3/2002


Edd Lee

Dated: 2-27-02


Edward Bylina